

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

ZAVIUS ANTWAN AVERETTE,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	2:06cv399-MHT
)	
WILLIE COPELAND, et al.,)	
)	
Defendants.)	

ORDER AND JUDGMENT

This litigation is now before the court on the recommendation of the United States Magistrate Judge (Doc. No. 43), to which no objection has been filed. After a review of the recommendation and after an independent and de novo review of the entire record, the court believes that the recommendation should be adopted. Accordingly, it is ORDERED as follows:

(1) The United States Magistrate Judge's recommendation (Doc. No. 43) is granted.

- (2) Defendants Thomas, Kendrick, Pernell, and Adair's motions for summary judgment (Doc. Nos. 13 & 16) are granted.
- (3) Judgment is entered in favor of defendants Thomas, Kendrick, Pernell, and Adair and against plaintiff, with plaintiff taking nothing by his complaint as to these defendants.
- (4) Defendant Copeland's motion for summary judgment (Doc. No. 13) is granted on plaintiff's federal due-process claim.
- (5) Judgment is entered in favor of defendant Copeland and against plaintiff on plaintiff's federal due-process claim, with plaintiff taking nothing as to said claim against defendant Copeland.
- (6) Defendant Copeland's motion for summary judgment (Doc. No. 13) is denied as to plaintiff's federal excessive-force claim and state-law claims for assault and battery.

(7) Defendant Latimore's motion for summary judgment (Doc. No. 13) is denied as to plaintiff's federal failure-to-protect claim and state-law claim for conspiracy to commit assault and battery.

(8) Plaintiff's federal excessive-force claim and state-law claims for assault and battery against defendant Copeland will go to trial.

(9) Plaintiff's federal failure-to-protect claim and state-law claim for conspiracy to commit assault and battery against defendant Latimore will go to trial.

DONE, this the 23rd day of July, 2008.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE